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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/965,831	10/01/2001	Kar Yan Tam	016660-103	3978
21839	7590	12/16/2005	EXAMINER	
BUCHANAN INGERSOLL PC (INCLUDING BURNS, DOANE, SWECKER & MATHIS) POST OFFICE BOX 1404 ALEXANDRIA, VA 22313-1404			LANIER, BENJAMIN E	
			ART UNIT	PAPER NUMBER
			2132	

DATE MAILED: 12/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/965,831	TAM ET AL.	
	Examiner Benjamin E. Lanier	Art Unit 2132	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 21 November 2005.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-28 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-28 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 01 October 2001 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

Response to Amendment

1. Applicant's amendment filed 21 November 2005 amends claims 1-3, 5-8, 18, 21-23, 26, and 28. Applicant's amendment has been fully considered and is entered.

Response to Arguments

2. Applicant's arguments filed 21 November 2005 have been fully considered but they are not persuasive. Applicant's argument that the Downs reference does not disclose sectioning of the audio content of a signal into at least two sections containing audio, one of which is distorted and the other of which provides a key for removing distortion is not persuasive because, as pointed out by Applicant, the key for decrypting the encrypted section is contained in a metadata section (Col. 18, step 126), which also contains audio data (Col. 58, line 4). Therefore, the metadata section of Downs reads on the amended claim limitations requiring at least two sections each having audio content.

3. Applicant's argument that the Downs reference does not disclose an advertisement section and that the advertisements of Davis are directed to an end user display is not persuasive because the metadata section of the content signal contains data to help promote the sale of the product (Col. 58, line 3), which would meet the limitation of an advertisement.

4. Applicant's arguments, filed 21 November 2005, with respect to the previous 112 rejections have been fully considered and are persuasive. The 112 claims rejections have been withdrawn.

Claim Rejections - 35 USC § 102

Art Unit: 2132

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-5, 8-13, 16-28, are rejected under 35 U.S.C. 102(e) as being anticipated by Downs, U.S. Patent No. 6,226,618. Referring to claims 1, 23, 28, Downs discloses an electronic content delivery system wherein an uncompressed audio file is watermarked with identification data (Col. 18, steps 121-125), which meets the limitation of incorporating watermarking information into said audio signal, marking at least one said section whereby said sections may be identified. The audio file is distributed in a content object that contains a metadata section and a content section (Col. 23, lines 36-39), which meets the limitation of sectioning said signal into at least two sections. The content is encrypted using a symmetric key that is packed along with the content (Col. 18, steps 125-127), which meets the limitation of generating distortion in one said section of said signal in a manner recoverable by a key obtainable from at least one other said section. Only a portion of the metadata section is encrypted (Col. 18, step 125). The encrypted content and all the metadata is combined into a content package (Col. 18, step 127), which meets the limitation of appending said distorted section to said at least one other section to form a composite signal comprising a distorted section and at least one undistorted section. The key for decrypting the encrypted section is contained in a metadata section (Col. 18, step 126), which also contains audio data (Col. 58, line 4). Therefore, the metadata section of Downs reads on the amended claim limitations requiring at least two sections each having audio content.

Referring to claims 2, 5, 8, Downs discloses that the symmetric key is included in the metadata section (Col. 23, lines 35-36) and the metadata section is appended to the content identified by a content identifier, which meets the limitation of said key is embedded in said at least one other said section by means of said watermarking information, said key is obtained directly from a sequence of bits contained in said at least one other said section.

Referring to claim 3, Downs discloses that the symmetric key is randomly generated (Col. 15, lines 63-65), which meets the limitation of said distortion is generated by creating a pseudo-random number sequence for adding as pseudo-random noise to said first said section, and wherein said pseudo-random number sequence is embedded in said at least one other section to enable said random noise to be subsequently removed.

Referring to claim 4, encryption is a form of scrambling.

Referring to claim 9, Downs discloses the content is encrypted using a symmetric key that is packed along with the content (Col. 18, steps 125-127), which meets the limitation of said first section comprises a section to which access is to be restricted.

Referring to claims 10, 12, Downs discloses the content can contain a store advertisement object (Col. 85, line 50).

Referring to claims 11, 12, Downs discloses that the metadata section contains usage rights that specify the number of plays allowed for the content (Col. 21, lines 25-29), which meets the limitation of said at least one other section comprises a trial listening section.

Referring to claim 13, Downs discloses that the watermarked audio signal is compressed (Col. 18, step 125).

Referring to claims 16, 24, Downs discloses that once the user receives the content package that the user retrieves the symmetric key and then decrypts the content file (Col. 19, steps 144-148), which meets the limitation of reading said composite signal, identifying said sections, obtaining said key from said at least one undistorted section, and recovering said distorted section.

Referring to claim 17, Downs discloses that decryption is performed in real-time (Col. 82, line 52).

Referring to claims 18, 19, Downs discloses that the content is encrypted using a symmetric key that is packed along with the content (Col. 18, steps 125-127), which meets the limitation of the audio signal comprising at least two sections, including a first section which is distorted in a manner recoverable by means of a key obtainable from at least one other section, said first section is a section to which access is restricted. The key for decrypting the encrypted section is contained in a metadata section (Col. 18, step 126), which also contains audio data (Col. 58, line 4). Therefore, the metadata section of Downs reads on the amended claim limitations requiring at least two sections each having audio content.

Referring to claims 20, 22, Downs discloses the content can contain a store advertisement object (Col. 85, line 50).

Referring to claims 21, 22, Downs discloses that the metadata section contains usage rights that specify the number of plays allowed for the content (Col. 21, lines 25-29), which meets the limitation of said at least one other section comprises a trial listening section.

Referring to claim 25, Downs discloses an electronic content delivery system wherein an uncompressed audio file is watermarked with identification data (Col. 18, steps 121-125), which

meets the limitation of incorporating watermarking information into said audio signal, marking at least one said section whereby said sections may be identified. The audio file is distributed in a content object that contains an advertisement object and a content section (Col. 23, lines 36-39 & Col. 85, line 50), which meets the limitation of including an advertisement with audio data in an audio signal comprising, sectioning said signal into a first section and an advertisement section. The content is encrypted using a symmetric key that is packed along with the content (Col. 18, steps 125-127), which meets the limitation of generating distortion of said first section in manner recoverable by a key obtainable from said advertisement section, and appending said distorted first section to said advertisement section.

Referring to claim 26, Downs discloses an electronic content delivery system wherein an uncompressed audio file is watermarked with identification data (Col. 18, steps 121-125), which meets the limitation of incorporating watermarking information into said audio signal, marking at least one said section whereby said sections may be identified. The audio file is distributed in a content object that contains a metadata section containing usage rights that specify the number of plays allowed for the content (Col. 21, lines 25-29) and a content section (Col. 23, lines 36-39 & Col. 85, line 50), which meets the limitation of including a trial listening section with audio data in an audio signal comprising, sectioning said signal into a first section and a trial listening section. The content is encrypted using a symmetric key that is packed along with the content (Col. 18, steps 125-127), which meets the limitation of distortion of said first section in a manner recoverable by a key obtainable from said trial listening section, and appending said distorted first section to said advertisement section.

Referring to claim 27, Downs discloses an electronic content delivery system wherein an uncompressed audio file is watermarked with identification data (Col. 18, steps 121-125), which meets the limitation of incorporating watermarking information into said audio signal, marking at least one said section whereby said sections may be identified. The audio file is distributed in a content object that contains an advertisement object, a metadata section containing usage rights that specify the number of plays allowed for the content (Col. 21, lines 25-29) and a content section (Col. 23, lines 36-39 & Col. 85, line 50), which meets the limitation of including an advertisement object and a trial listening section with audio data in an audio signal comprising, sectioning said signal into a first section, an advertisement object and a trial listening section. The content is encrypted using a symmetric key that is packed along with the content (Col. 18, steps 125-127), which meets the limitation of distortion of said first section in a manner recoverable by a key obtainable from at least one of said advertisement object, trial listening section, and appending said distorted first section to said advertisement section and trial listening sections for form a composite signal.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

Art Unit: 2132

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

9. Claims 6, 7, 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Downs, U.S. Patent No. 6,226,618, in view of Schneier. Referring to claims 6, 7, Downs discloses that the content is encrypted using a symmetric key that is packed along with the content (Col. 18, steps 125-127), but does not disclose encrypting using a hash output. Schneier discloses a method of symmetric encryption that hashes the file to be encrypted and then encrypts the file using the hash output (Pages 351-353). It would have been obvious to one of ordinary skill in the art at the time the invention was made to encrypt the audio files of Downs using the output of the audio file hashes because that encryption process performs faster than other symmetric encryption algorithms as taught in Schneier (Page 355).

Referring to claim 14, Downs discloses that the watermarked audio signal is compressed (Col. 18, step 125).

10. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Downs, U.S. Patent No. 6,226,618, in view of Jones, U.S. Patent No. 6,697,944. Referring to claim 15, Downs discloses compressing the audio files using mpeg compression algorithms, but does not specify mpeg layer 3 compression. It would have been obvious to one of ordinary skill in the art at the time the invention was made for the electronic distribution system of Downs to use mpeg layer 3 compression because at the time of Downs invention mpeg layer 3 compression was widely the most used form of audio compression as taught by Jones (Col. 1, line 66 – Col. 2, line 1).

Conclusion

Art Unit: 2132

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin E. Lanier whose telephone number is 571-272-3805. The examiner can normally be reached on M-Th 7:30am-5:00pm, F 7:30am-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gilberto Barron can be reached on 571-272-3799. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Art Unit: 2132


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